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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,826	01/25/2006	Louis Jourdain	17919-IUS ADA	7493
20/988 7590 10/15/2010 OGILVY RENAULT LLP 1, Place Ville Marie SUITE 2500 MONTREAL, QC H3B 1R1 CANADA				
EXAMINER BYRD, LATRICE CHENWILL				
ART UNIT		PAPER NUMBER		
3782				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,826

Applicant(s)

JOURDAIN, LOUIS

Examiner

LATRICE BYRD

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2010.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14, 19 and 20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 14, 19 and 20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 1/25/06 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auerbach (USPN 1,492,951) in view Laido (USPN 4,802,619), Wynne et al. (USPN 2,339,445), Smith et al. (USPN 6,045,038), Rinde (USPN 6,182,823B1) and Hillmann (USPN 684,243).
3. In re claim 14, Auerbach discloses a paper dispenser comprising a paper dispenser body made of a folded single sheet of pliable material and having a substantially frustopyramidal exterior shape with an opened top and a closed bottom, with four exterior walls (21,32) defining the frustopyramidal shape and four interior walls (22,33) delimiting a paper-receiving compartment, wherein said exterior walls are spaced apart from corresponding ones of said interior walls with a space between them, said single sheet of pliable material, prior to folding, having a substantially cross-shaped center portion and four side portions, wherein said cross-shaped center portion comprises a middle section (12) that, once folded, becomes the bottom of said paper dispenser, and four adjacent sections (21,32), adjacent the middle section, which once folded become the exterior walls, wherein the four side portions are connected to corresponding ones of the four adjacent sections, opposite the middle section, and each

comprise a panel (22,33) which once folded will become a corresponding one of the interior walls; the four side portions including a first pair of opposed ones of the side portions, and a second pair of opposed ones of the side portions, each side portion of the first pair having two opposite lateral sections (27-30) which interlockingly engage with the other two opposite lateral sections once folded, and a flap (34) which comes into abutment with a corresponding one of the exterior walls once folded.

Auerbach fails to disclose the paper-compartment being cubical with a slot extending downwardly from the top of both the exterior and interior walls, the exterior wall having an opening, the exterior face of the interior wall having an illustration or marking visible through the opening, and the second pair of side portions having a flap which precisely fits between the four interior walls when folded.

However, Laido teaches a double walled container with a cubical receiving compartment, Wynne et al. teaches a slot extending downwardly from the top of both an exterior wall (11) and an interior wall (14) which is provided in both the exterior and interior wall, Smith et al. teaches an opening (213) in an exterior wall (12), Rinde teaches an illustration (22) on the exterior face of an interior wall (68) visible through an opening (72) in the exterior wall (66), and Hillmann teaches flaps (A^2) extending from a second pair of side portions between four interior walls (B^2, C^2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the container of Auerbach to form the receiving compartment cubically as taught by Laido to store square shaped items in the dispenser, include a slot in the interior and exterior wall as taught by Wynne et al. in order to provide access

to the contents of the container, include an opening in the exterior wall as taught by Smith et al. in order to display decorations on an interior wall through an interior wall, included illustrations on the interior wall as taught by Rinde in order to provide a display for the consumer to identify the product that may be three-dimensional and aesthetically pleasing, and a flap extending from the side portion as taught by Hillmann in order to retain the inner walls and hold them in place rendering it impossible for them to escape position, respectively.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auerbach (USPN 1,492,951), Laido (USPN 4,802,619), Wynne et al. (USPN 2,339,445), Smith et al. (USPN 6,045,038), Rinde (USPN 6,182,823B1) and Hillmann (USPN 684,243) as applied to claim 14 above, in further in view Wood (USPN 3,347,445) or Haas (USPN 3,122,299).

5. In re claim 19, Auerbach discloses the claimed except the cross-shaped center comprising four pairs of flaps. However, Wood and Haas each teach a container having a crossed-shaped center portion comprising four pairs of flaps (Wood 46,47,51,52,56,57,61,62 and Haas 50), with one pair of flaps being disposed at each inner corner of the cross-shaped center portion. It would have been obvious to one of ordinary skill in the art at the time of the invention to have substituted the tongues 20 of Auerbach with the pairs of flaps disposed at each inner corner as taught by Wood or Haas in order to serve as a means of tying the side walls to the exterior and interior walls.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Auerbach (USPN 1,492,951), Laido (USPN 4,802,619), Wynne et al. (USPN 2,339,445), Smith et al. (USPN 6,045,038), Rinde (USPN 6,182,823B1) and Hillmann (USPN 684,243) as applied to claim 14 above, in further in view Simon (USPN 2,034,885).
7. In re claim 20, Auerbach discloses the claimed invention except a stack of rectangular shaped paper sheets in the paper-receiving compartment. However, Simon teaches a stack of rectangular paper sheets in a paper-receiving compartment. It would have been obvious to one of ordinary skill in the art to have further modified the dispenser of Auerbach by eliminating the partitions and filling the paper-receiving compartment with a stack of paper sheets as taught Simon as a matter of choice of the user of what product to contain and dispense from the paper-receiving compartment. No functional distinction is seen in containing paper sheets versus candy in the compartment.

Response to Arguments

8. Applicant's arguments filed 7/12/2010 have been fully considered but they are not persuasive. In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LATRICE BYRD** whose telephone number is (571)270-5703. The examiner can normally be reached on **Mon-Thu 9:30am-6pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Nathan Newhouse** can be reached on **571-272-4544**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LATRICE BYRD/
Examiner, Art Unit 3782

/Gary E. Elkins/
Primary Examiner, Art Unit 3782